



INDIANA DEPARTMENT OF TRANSPORTATION

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FRANK O'BANNON, Governor  
CURTIS A. WILEY, Commissioner

Writer's Direct Line

October 7, 1997

Office of the Secretary  
Federal Communication Commission  
Washington, DC 20554

97-182 ✓

Dear Sir/Ma'am:

This letter is written in reference to the proposed rule 47 CFR Part 1 (Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Transmission Facilities). The Indiana Department of Transportation (INDOT), Aeronautics Section strongly opposes this rule being approved.

Although the increased resolution that DTV promises does have a degree of entertainment value, we believe it can exist in harmony with our airports and not at their expense. By preempting the state and local zoning regulations it will undoubtedly degrade the utility of our airports through hazardous towers are being erected. If the rule goes into effect it will severely hamper the INDOT Aeronautics Section's ability to stop the erection of towers that present a safety hazard to a public-use airport.

Indiana has approximately 117 public-use airports found within its borders that are currently receiving protection from the Indiana Department of Transportation, Aeronautics Section's tall structure regulations. These airports serve in many capacities in various communities throughout the state. Furthermore, they are a vital economic transportation link for in state and out of state commerce. Several millions of tax dollars have been spent on updating and maintaining the aviation infrastructure found within Indiana and our system of airports would be gravely jeopardized by the passage of this regulation.

Sincerely;

Larry Merritt  
Division Chief

LM/MM/ta

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**PARTNERSHIP TENURE**

**JAMES W. NICHOLS 1887-1903**

**WILLIAM C. PENTECOST 1900-1914**

**ORVILLE W. NICHOLS 1914-1970**

**MAIL ROOM**

October 6, 1997

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Office of the Secretary  
Federal Communications Commissions  
Washington, DC 20554

RE: 47 CFR Part I  
Preemption of State and Local Zoning and  
Land Use Restrictions on the Siting, Placement  
and Construction of Broadcast Transmission Facilities

Gentlemen:

I am the attorney for the Starke County Airport Authority which has control over the Starke County Airport located at Knox, Indiana 46534.

The Starke County Airport Authority has adopted an Air Zoning Hazard Ordinance regulation land use and air use around the Starke County Airport for airport safety. This Ordinance regulates and controls structures built within its perimeters which, in effect, control the height which structures may be constructed in or around the Starke County Airport. This is necessary to protect not only the flying public but the persons on the ground as well.

This adoption was done pursuant to the requirements of the Federal Aviation Administration as well as the Indiana Aeronautics Section as codified in the Indiana Code.

The Indiana Aeronautics Section also regulates tall structures under Indiana law.

To the extent of the proposed preemption of state and local zoning and land use restrictions in the proposed rule pending before the Federal Communications Commission would limit or negate authority of the Federal Aviation Administration, the Indiana Department of Transportation Aeronautics Section, the Starke County Airport Authority and the Starke County Planning Commission over tall structures which may endanger the flying public, we are opposed to the proposed rule.

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Federal Communications Commission  
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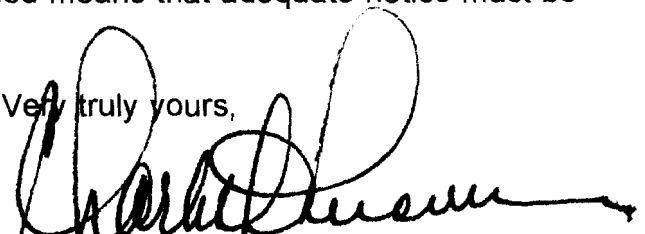
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The entities regulating the air space on behalf of the public must have the opportunity and the time to properly examine any proposal to verify that it is correct.

In support of time, I may add that in proposals for structures which have been in the vicinity of the Starke County Airport, which proposals were being reviewed by the Federal Aviation Administration, we have found where we were the only entity who recognized that the placement as shown on applications and the height as shown on applications for such structures were in error so that the structure was not going to be located where it was situated on the map containing the application and that the height thereby of the resulting structure exceeded the height set forth in the application. Local entities as well as state and federal entities who safeguard the flying lanes of the public must have reasonable opportunity to verify the accuracy of the application, to verify the effect of the application upon the flying public shall be defined means that adequate notice must be given to users of the air lanes.

Very truly yours,



Charles W. Weaver

CWW/pt

cc: Starke County Airport Authority  
Indiana Department of Transportation  
Federal Aviation Administration  
Attn: Mr. Greg Sweeney